

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MACKENSON CEBE,	:	CIVIL ACTION NO. 3:22-CV-1570
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
JOSEPH D. ZOLA, et al.,	:	
	:	
Defendants	:	

MEMORANDUM

Before the court is the report of Chief Magistrate Judge Karoline Mehalchick, issued following a screening review of *pro se* plaintiff Mackenson Cebe’s complaint. Cebe has objected to the report. For the reasons that follow, we will adopt the report, overrule Cebe’s objections, and close this case.

I. Background

Cebe initiated this lawsuit with the filing of a complaint on October 5, 2022. Because the complaint named a magistrate judge of this court, specifically, United States Magistrate Judge Joseph F. Saporito, Jr., as a defendant, the undersigned immediately reviewed the pleading pursuant to Standing Order 19-06, which sets forth procedures for screening civil actions lodged against a district judge or magistrate judge of this district. We found Cebe’s claims against Magistrate Judge Saporito to be factually frivolous and therefore concluded there was no basis to reassign the lawsuit outside of this judicial district. The matter was then assigned to Chief Magistrate Judge Mehalchick for all further pretrial proceedings.

Judge Mehalchick screened Cebe's complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and issued a report recommending we dismiss Cebe's complaint without further leave to amend. Cebe did not object to the report within the time allotted by the Local Rules of Court, and on February 2, 2023, we entered an order adopting Judge Mehalchick's report, dismissing Cebe's complaint, and closing the case. On February 24, 2023, Cebe filed a motion to reopen, asserting he had not received the report until after the deadline for filing objections expired. We granted Cebe's motion and reopened the case for the sole purpose of allowing Cebe to file objections to the report. Cebe did so on March 13, 2023, and the report and Cebe's objections thereto are ripe for disposition.

II. Legal Standard

When a party objects to a magistrate judge's report and recommendation, the district court undertakes *de novo* review of the contested portions of the report. See E.E.O.C. v. City of Long Branch, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)); see also FED. R. CIV. P. 72(b)(3). We afford "reasoned consideration" to any uncontested portions of the report before adopting them as the decision of the court. City of Long Branch, 866 F.3d at 100 (quoting Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987)).

III. Discussion

We find Judge Mehalchick's analysis to be well-reasoned and fully supported by the applicable law, and Cebe's objection to be without merit. For purposes of the discussion that follows, we adopt and incorporate in full the factual

background set forth in Judge Mehalchick's report, as well as Judge Mehalchick's articulations of applicable legal standards.

We note as a preliminary matter that Cebe's objection arguably is insufficient to trigger *de novo* review. Our Local Rules of Court require that objections "specifically identify the portions of the . . . report to which objection is made and the basis for such objections." See M.D. PA. L.R. 72.3. Cebe's filing does not speak directly to the report or to its substantive analysis, and it is unclear to which aspects of the report's analysis Cebe objects. In any event, we agree with Judge Mehalchick that Cebe's complaint is legally and factually frivolous. And we also agree further leave to amend would be futile. Cebe's objection gives us no basis to find he is capable of or even interested in curing the many defects in his pleading or endeavoring to comply with the Federal Rules of Civil Procedure. We thus conclude, for the reasons set forth in Judge Mehalchick's report and based upon our review of Cebe's objections, that further leave to amend would be futile. See Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002).

IV. Conclusion

For the reasons set forth herein, we will adopt Judge Mehalchick's report and dismiss Cebe's complaint without further leave to amend. An appropriate order shall issue.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner
United States District Judge
Middle District of Pennsylvania

Dated: June 9, 2023